

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CALVIN MCGOWAN,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:04-0996
)	Judge Trauger
DELL COMPUTER CORPORATION,)	Magistrate Judge Griffin
)	
Defendant.)	

ORDER

On August 15, 2008, the Magistrate Judge issued a Report and Recommendation (Docket No. 116), to which no timely objections have been filed. The Report and Recommendation is therefore **ACCEPTED** and made the findings of fact and conclusions of law of this court. For the reasons expressed therein, the following is hereby **ORDERED**:

1. The defendant's Motion for Summary Judgment (Docket No. 101) is **GRANTED** as to the following claims by the plaintiff:
 - (a) any age discrimination claims;
 - (b) the claims under the Tennessee Human Rights Act;
 - (c) the state law claims for defamation;
 - (d) the Title VII and Section 1981 claims for a hostile workplace;
 - (e) the Title VII claims for failure to promote based on any events occurring prior to August 15, 2002;
 - (f) the Title VII and Section 1981 claim for failure to promote based on the January 2003, Quality Assurance Manager position; and
 - (g) the Title VII and Section 1981 claims for retaliation based

on the events of June 13, 2003.

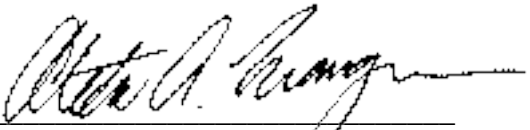
It is further **ORDERED** that the defendant's motion for summary Judgment is **DENIED** as to the following claims:

- (a) the Title VII claims for failure to promote based on the April 2003, Operations Manager Position, and the September 2002, Quality Assurance Manager Position;
- (b) the Title VII and Section 1981 claims for retaliation based on the plaintiff's separation from employment in July 2003; and
- (c) any Section 1981 failure to promote claims for which summary judgment is not specifically granted herein.

Before the court sets this case for trial, it requests that the parties consider a judicial settlement conference/mediation to settle the remaining claims. It is therefore **ORDERED** that, by October 20, 2008, the parties shall file a position statement as to whether or not they are amenable to a judicial settlement conference/mediation before Magistrate Judge Griffin.

It is so **ORDERED**.

Enter this 8th day of October 2008.



ALETA A. TRAUGER
U.S. District Judge